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2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 Case 1:10-cv-06005-RWS

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6 ADRIAN SCHOOLCRAFT,
7 Plaintiff,

8 -against-

9 THE CITY OF NEW YORK, DEPUTY CHIEF
MICHAEL MARINO, Tax Id. 873220,
10 Individually and in his Official
Capacity, ASSISTANT CHIEF Patrol
11 Borough Brooklyn NORTH GERALD NELSON,
Tax Id. 912370, Individually and in his
12 official Capacity, DEPUTY INSPECTOR
STEVEN MAURIELLO, Tax Id. 895117,
13 individually and in his Official
Capacity, CAPTAIN THEODORE LAUTERBORN,
14 Tax Id. 897840, Individually and in his
Official Capacity, LIEUTENANT WILLIAM
15 GOUGH, Tax Id. 919124, Individually and
in his Official Capacity, SGT.
16 FREDERICK SAWYER, Shield No. 2576,
Individually and in his Official
17 Capacity, SERGEANT KURT DUNCAN, Shield
No. 2483, Individually and in his
18 Official Capacity, LIEUTENANT
CHRISTOPHER BROSCART, Tax Id. 915354,
19 Individually and in his Official
Capacity, LIEUTENANT TIMOTHY CAUGHEY,
20 Tax Id. 885374, Individually and in his
Official Capacity, SERGEANT SHANTEL
21 JAMES, Shield No. 3004, Individually
and in her Official Capacity,
22 LIEUTENANT THOMAS HANLEY, Tax Id.
879761, Individually and in his
23 Official Capacity, CAPTAIN TIMOTHY
TRAINER, Tax Id. 899922, Individually
24 and in his Official Capacity,
25 (Caption continued on following page.)

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2 CAPTION: (continued)

3 SERGEANT SONDRRA WILSON, Shield No.
4 5172, Individually and in her Official
5 Capacity, SERGEANT ROBERT W. O'HARE,
6 Tax Id. 916960, Individually and in his
7 Official Capacity, SERGEANT RICHARD
8 WALE, Shield No. 3099 and P.O.'s "JOE
9 DOE" # 1-50, Individually and in their
10 Official Capacity (the name John Doe
11 being fictitious, as the true names are
12 presently unknown), (collectively
13 referred to as "NYPD defendants"), FDNY
14 LIEUTENANT ELISE HANLON, individually
15 and in her Official Capacity as a
lieutenant with the New York City Fire
Department, JAMAICA HOSPITAL MEDICAL
CENTER, DR. ISAK ISAKOV, Individually
and in his Official Capacity, DR.
LILIAN ALDANA-BERNIER, Individually and
in her Official Capacity and JAMAICA
HOSPITAL MEDICAL CENTER EMPLOYEE'S
"JOHN DOE" # 1-50, Individually and in
their Official Capacity (the name John
Doe being fictitious, as the true names
are presently unknown),

Defendants.

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111 Broadway
New York, New York
October 8, 2013
10:17 a.m.

19 DEPOSITION of MICHAEL MARINO, held
20 at the above time and place, taken
21 before Al-Furquan Baker, a Shorthand
22 Reporter and Notary Public of the State
23 of New York, pursuant to the Federal
24 Rules of Civil Procedure, Order and
25 stipulations between Counsel.

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2 APPEARANCES:

3
4 LAW OFFICES OF NATHANIEL B. SMITH
Attorneys for Plaintiff
5 111 Broadway
New York, New York 10006

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7 BY: NATHANIEL B. SMITH, ESQ.
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9

10 NYC LAW DEPARTMENT
CORPORATION COUNSEL
Attorneys for Chief Michael Marino
11 and All City Defendants
100 Church Street
12 New York, New York 10007

13 BY: SUZANNA PUBLICKER METTHAM, ESQ.
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16 CALLAN KOSTER BRADY & BRENNAN, LLP
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18 New York, New York 10004

19 BY: MEREDITH B. BORG, ESQ.
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21 (Continued on following page.)
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2 APPEARANCES: (Continued)
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21 A L S O P R E S E N T:
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23 MAGDALENA BAUZA
24 JOHN LENIR
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STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED,
by and among counsel for the respective
parties hereto, that the filing,
sealing and certification of the within
deposition shall be and the same are
hereby waived;

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to form
of the question, shall be reserved to
the time of the trial;

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be
signed before any Notary Public with
the same force and effect as if signed
and sworn to before the Court.

* * *

1 M. Marino

2 MR. SMITH: Okay.

3 So we're on the record. It's
4 10:20.

5 We're beginning the
6 deposition of Chief Michael Marino.
7 It's being videotaped, and the
8 court reporter is taking down the
9 testimony. And it's being
10 videotaped at 111 Broadway, Suite
11 Number 1305, October 8, 2013.

12 M I C H A E L M A R I N O,
13 the Witness herein, having first
14 been duly sworn by the Notary
15 Public, was examined and testified
16 as follows:

17 EXAMINATION BY

18 MR. SMITH:

19 Q. Good morning, chief.

20 How are you?

21 A. Good morning, counselor.

22 I'm fine.

23 Q. I know from reviewing some of
24 the documents that you have some
25 familiarity with this process.

1 M. Marino

2 A. A situation.

3 Q. They used the term "caper"?

4 A. No.

5 Q. What, to the best of your
6 recollection, did they say?

7 A. A bag of shit.

8 Q. And what's that a reference
9 to?

10 MS. PUBLICKER METTHAM:

11 Objection.

12 You can answer.

13 A. Just what it sounds like. A
14 situation, an unpleasant situation.

15 Q. Did they tell you anything
16 else about their situation?

17 A. Oh, yes.

18 Q. Would you mind sharing that
19 with us?

20 A. Sure.

21 They told me that a police
22 officer left at around 14:00, which
23 would be 2:00 p.m. He was ordered not
24 to go, and he left. They told me that
25 the officer was acting irrationally,

1 M. Marino

2 that he had had psychiatric evaluations
3 in the past and that he had been
4 answering his cellphone and that he
5 stopped. And they believed that the
6 officer was, already had or was going
7 to hurt himself.

8 Q. Do you remember who told you
9 this?

10 A. I can't say. I believe it
11 was Captain Lauterborn, but I really
12 can't say.

13 Q. Did they say anything else to
14 you?

15 A. Yes.

16 Q. What else did they say?

17 A. They told me that their plan
18 was to go to his house and get the key
19 from the landlord and let themselves in
20 and see if he was in the apartment.

21 Q. Did they tell you anything
22 else?

23 A. No.

24 Q. Did you say anything in
25 response?

1 M. Marino

2 A. Yes.

3 Q. What did you say?

4 A. I asked him who they notified
5 so far because it had been a couple of
6 hours since this disappearance of the
7 officer.

8 And then I instructed them
9 that they were to notify operations and
10 get his plate number out and notify the
11 Emergency Service unit.

12 And that under no
13 circumstances were they to let
14 themselves into that house alone like
15 that, and that they could respond to
16 his house with emergency service
17 following the proper procedures.

18 And if he answered the door,
19 see if he needs medical help. If he
20 doesn't answer the door, under no
21 circumstances were they to go in until
22 my arrival.

23 Q. Why did you tell them that
24 they were not to go into his house?

25 A. You have a police officer who

1 M. Marino

2 you think is going to hurt himself and
3 he's at that level of anxiety, if you
4 just can go into the house like that,
5 you may push his hand where he may hurt
6 himself or try to hurt you or you would
7 have to hurt him.

8 It's a dangerous situation.
9 It's got to be handled properly.

10 The whole idea is to prevent
11 him from hurting himself, not to
12 aggravate it.

13 Q. Did you tell them anything
14 else?

15 A. I don't think that I said
16 much more than that at that time, no.

17 Q. Were these orders that you
18 were giving them?

19 A. Yes, they were.

20 Q. Do you know whether or not
21 they made any notes of these orders in
22 their memo books or anywhere else?

23 MS. PUBLICKER METTHAM:

24 Objection.

25 You can answer.

1 M. Marino

2 A. I don't remember any.

3 Q. All right.

4 When you got to the landing
5 on the second floor, what discussions
6 do you recall?

7 A. I was informed that there
8 were two officers in the backyard and
9 one lieutenant, as I said, in the
10 front. They had been there for a
11 while. And they were all soaked from
12 the rain. Emergency Services had been
13 attempting to establish some kind of
14 contact with no result.

15 And at one point it was
16 related to me that the landlord firmly
17 believed that Schoolcraft was still
18 inside because he had heard him moving
19 around, but hadn't heard any movement
20 for an hour.

21 But he couldn't have left
22 because there are police officers
23 surrounding the premise and in the
24 hallway.

25 Q. Who provided this information

1 M. Marino

2 they had spoken to Adrian Schoolcraft's
3 father before you entered into this
4 course of action?

5 A. I don't remember that, no.

6 Q. Did Captain Lauterborn at any
7 time ever tell you that he had
8 conversations with Larry Schoolcraft
9 before you entered into this course of
10 action to enter Adrian's apartment?

11 A. No, nobody told me that.

12 Q. What time of the day was it
13 when you entered into this course of
14 action?

15 A. I couldn't say.

16 Q. It was dark outside?

17 A. I believe that it was.

18 Q. After having this
19 conversation with the officers on the
20 landing, what happened next?

21 A. The Emergency Service
22 officers opened the door as I asked
23 them to. And you can see inside to the
24 left (indicating). It was a door open
25 inwards from left to right